

COST / MTC / SST

Amnesty Webcast Q&A

12-Dec-05

Question	Answer
How do you voluntarily disclose that a corporate income and/or franchise tax return may be due in a state and establish a limit on years to file past returns on as well as try to limit the interest and penalties?	Participate in state's voluntary disclosure program or obtain voluntary disclosure agreement through the MTC's national nexus program.
How is a taxpayer able to perform this better than having an outside consulting firm act as third party and barter a better closure of years?	The taxpayer is in the best position to determine whether it would be preferable for the business to retain an outside consulting firm or to represent itself in negotiating a voluntary disclosure. In either case, the MTC guarantees taxpayer anonymity and confidentiality.
What does "full amnesty" mean?	Taxpayers are not responsible for uncollected sales tax or penalty and interest on such tax under the SST amnesty program. The amnesty does not apply to use tax on purchases. Taxpayers will be required to remit any sales tax collected and perhaps penalty and interest on collected sales tax.
When will we know which states will or will not be extending the amnesty for one year from the date that CSPs are available?	Such states were required (by motion adopted by the Governing Board on November 9) to self identify in writing if they could not extend their amnesty. The Governing Board will learn which states intend to extend their amnesty at their January 13 meeting.
How does the amnesty work for Associate member states?	Businesses choosing to volunteer for SST amnesty can choose whether to collect for the Associate member states and by doing so they determine whether or not they obtain amnesty for these states. If an Associate member state becomes a full member registrants must begin collecting for all full member states and thus the registrant would get amnesty at that point in time assuming that the Associate member state had not contacted the taxpayer on audit.
If a taxpayer registers for Streamlined Sales Tax, can taxpayer be assured that there will be no disclosure of taxpayer's registration and/or nexus to non-SSUTA states?	A condition of being a member state is not sharing information about registrants to any non-member state, and full member states cannot share information with associate member states.

Question		Answer
Just to clarify - If we enter the amnesty program today, there is no look-back period - not even to 10/1/2005?		As a general rule, SST amnesty does not require any look-back period for qualifying taxes. However, any company that does not start collecting when it registers under SST must know that Michigan is unable to provide the amnesty after the registration date. Such a limitation may apply in other states as well.
If a company is uncertain whether they are required to file in a state, but they check the "not required to file" option on the SST registration form, could that cause a problem re: fraud?		Based on conversations with SST Governing Board delegates, it seems that the only time this could be considered fraud is if the company actually knew it had an obligation to collect and knowingly gave a false answer when registering.
I don't understand the "use tax exception. Isn't that what a remote seller would owe? Use tax collected on behalf of buyers. Did you mean their own use tax?		Use tax on a business' own purchases is not covered by the SST amnesty.
If nexus is a gray area, must registrant select "nexus" on its application versus volunteer? Or could it claim non-nexus on its registration form? Does the answer change if vendor compensation is not an issue because CSP model not selected?		If the taxpayer knows they have nexus with a state they should so indicate when they complete the application. If they are unsure can choose the volunteer category. The taxpayer could contact the state for clarification of its nexus rules. For purposes of the amnesty the answer does not change based on which technology model the taxpayer chooses.
What if currently registered and transfers assets to a new entity not registered are there successor rules?		As a general rule the new entity would be expected to continue collecting for the duration of the 36 month required period. Without more facts it is impossible to say whether the taxpayer in the question would fall within an exception to that requirement or if they did not collect would the taxpayer lose its amnesty. It is reasonable to assume that states will take a very dim view of a taxpayer transferring its assets to a non-registered related entity to avoid audit exposure.
What if you have a company that you would like to request Amnesty on behalf of a Co. that is no longer in existence. For example, Company A acquires Company B and would like to clear up past exposure of Company B. Company A is presumably in compliance		If Company B is still in existence as a subsidiary of Company A there is nothing precluding Company B from obtaining amnesty. If Company B is no longer in existence it cannot obtain amnesty????

Question		Answer
How does this tie into income/ franchise taxes, etc.? Will participating in SST trigger audits for these types of taxes?		Registration under SST can not be used as a factor in determining whether a taxpayer has nexus for other taxes. That said, there is nothing prohibiting states from auditing a registrant for other taxes. If states begin to conduct such audits it is unlikely that any taxpayer will register so it is though to be unlikely that states will use the registration list as an audit list.
After we have registered through SST, do we need to wait until we are notified by each member state, or do we begin collecting tax after we registered with SST?		You must be prepared to begin collection if you are not relying on Model 1 or Model 2 technology.
How might the provisions affect the telecommunications industry? Just sales taxes, or possibly communications taxes and similar?		Each state can choose which taxes are covered by the SST Agreement. In a few states the general sales tax applies to telecommunications taxes and is covered by the SST provisions. In most states the telecommunications transaction taxes are outside the general sales tax provisions and are not covered by the Agreement.
If you don't volunteer to collect tax for associate member, did you say you don't get amnesty in that state?		Amnesty applies in Associate member states if the taxpayer volunteers to collect for that state or once the Associate member becomes a full member.
Aside from amnesty, why should my company register under the Streamlined Sales Tax?		The SST Agreement contains numerous other benefits like the central registration system, databases, and limited scope audits which will apply to registrants.
If you are already registered in a state (before the SST was established), are there still any SST registration requirements?		If you are already registered in a state you do not have to do anything special on the SST registration system.
For clarification, taxpayer registers under SST, but elects to not register with OH until OH becomes a full member on 1/1/08, does the taxpayer receive amnesty in OH (assuming the taxpayer does not come under audit by OH between now and 1/1/08)?		The taxpayer would begin collecting for OH on 1/1/08 and would receive amnesty for OH for periods prior to 1/1/08 assuming that the taxpayer was not contacted for audit.
Procedurally, if you check the legal obligation box, will the state send license registration material or does the company have to request it separately from the state?		States have indicated that they will follow up with taxpayers checking this box to provide the company with license registration and other tax information to assist the taxpayer in meeting its other compliance obligations.

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If I register for amnesty in one state, can the state tell other states?	A condition of being a member state is not sharing information about registrants to any non-member state, and full member states cannot share information with associate member states.
So if you have a physical presence and need to check the box on the registration, do you still receive amnesty?	Amnesty applies whether or not a taxpayer has nexus.
What does it mean that a company is required to collect in all full member states? What if you don't have nexus in all member states?	A registrant is volunteering to collect in the full member states regardless of whether the company has nexus in those states.
Other than amnesty, are there any advantages to registering?	The SST Agreement contains numerous other benefits like the central registration system, databases, and limited scope audits which will apply to registrants.
Is Vertex a qualified service provider?	The SST Governing Board is in the process of negotiating contracts with a number of service providers but has not yet certified any of them.
Is there a list of each model 1 & 2 providers?	The SST Governing Board is in the process of negotiating contracts with a number of service providers but has not yet certified any of them.
Can an affiliated successor to or assignee of contracts file for amnesty to cover the successor as well as the assignor/prior owner's sales?	Without more facts it is impossible to say whether the taxpayer in the question would fall within the amnesty provision.
Would a retailer registrant be afforded the benefits of Model 2 CAS if the software resides at and is utilized for multiple parties by a third-party fulfillment house that performs its billing function?	Without more facts it is impossible to say whether the taxpayer in the question would fall within the amnesty provision.
Does SST site include info/ link on MTC program and vice versa?	This information will be posted in the near future.
What is the downside of opting for Model 4? Can a taxpayer register now under Model 4 and start collecting and remitting and then switch to Model 1 or 2 when such CSPs or certified software becomes available?	There isn't any downside to opting for Model 4. It allows you to use your current system to collect sales tax, you get the amnesty in those states where you are not registered and in the future you can switch to a Model 1 or 2. However, the taxpayer registering under Model 4 will be under an immediate obligation to collect sales tax and the taxpayer will not receive compensation for using this model in all states.
Are all Streamlined States members of MTC program?	Indiana and Nevada are not members of the MTC voluntary disclosure program but have agreed to participate in this initiative to facilitate businesses willing to volunteer for SST collection.

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If the taxpayer's risk in terms of dollars is much larger for the sales tax issue, does it make sense for the taxpayer to first register with SSTP for purposes of getting the sales tax amnesty out of the way first, and then doing other VDAs thereafter?	This would make sense for taxpayers especially if they were concerned about the possibility of a sales tax audit preventing them from obtaining amnesty.
If a taxpayer submits a request for voluntary disclosure through the MTC, will that request toll the states' ability to deny SSTP amnesty if the state submits an audit notice before the VDA is finalized with the MTC?	Submission of a request for voluntary disclosure through the MTC does not protect a taxpayer from losing the ability to obtain SST amnesty. If a taxpayer receives an audit notice before registering for SST collection it is not entitled to amnesty in the state conducting the audit.
So the difference in MTC and Sales Tax Amnesty is that MTC has Look-Back, Sales Tax does not...all Sales tax, interest, and penalty is forgiven. Is this right?	The MTC recommends that taxpayers follow the standard lookback to utilize the voluntary disclosure program. The SST sales tax amnesty has no lookback period. Also, the MTC allows for disclosure of other state tax types, as well, subject to state law and policy.
You stated that if registering under SST taxpayers are obligated to collect tax for 36 months for all member states. What happens at the end of the 36 month period?	Taxpayers can continue collecting or choose to stop collecting assuming that the taxpayer does not have nexus.
Now that unregistered companies are more likely to use the SSTP Amnesty program, will states now be more flexible to let registered companies use the Voluntary Disclosure program?	The MTC can only follow the policies of its member states. If a member state allows a registered company to use its VDK program, the MTC will do so for that state.
Are any MTC states that are not SSTP member states offering SSTP-sales-tax-type amnesty?	Not that we are aware of.
How is the MTC Voluntary Disclosure Program different from programs offered by the various states?	It allows taxpayers to make voluntary disclosure proposals in multiple states on a one-stop shopping basis, with an additional level of anonymity.
Is there one specific person at the MTC which a taxpayer would work with to clean-up potential income/franchise tax liabilities rather than two or three other different people at the MTC?	There are a number of MTC staffers who work on voluntary disclosure cases. Each taxpayer ordinarily has only one point of contact.
What is the benefit of using the MTC's Voluntary Disclosure Program versus going to the states directly?	Coordination of effort and expedited resolution on a multistate basis. MTC staff expertise and experience can assist the taxpayer in formulating a multistate voluntary disclosure that is more likely to be acceptable to most states.

Question		Answer
How many states participate in this program? Also, would the states accept a percentage of prior years' tax?		The nineteen SST full or associate member states are currently participating in the expedited non-sales tax voluntary disclosure process. However, the MTC can process voluntary disclosures for most of the other states as well for income/franchise tax, sales/use tax, and sometimes other taxes.
Does a Company need to pay all back taxes as one lump-sum, or can they enter into a payment agreement with the states?		In very limited cases, states may enter into a payment agreement with the taxpayer based upon unique facts and circumstances. However, interest will continue to accrue on unpaid balances.
What if you are subject to income/franchise tax in certain member states but not others, will the other states be notified of the taxpayer making an MTC VD? Explain again what program is available to handle VD's in non-member states.		Neither the MTC nor any of its members will disclose the identity of the taxpayer or the terms of any agreement, to any state that is not participating in the disclosure. In addition to the nineteen SST states participating in the expedited voluntary disclosure program, the MTC also processes voluntary disclosures for most of the other states including income/franchise tax, sales/use tax, and sometimes other taxes.
Is there a "first contact" protection period under the MTC VDA program such that the taxpayer is protected during the pendency of the MTC application and the review by the states (in case it is contacted by a state for audit during the negotiation)?		The generally accepted practice is that a state will allow a voluntary disclosant to complete the disclosure on the standard terms in the event that the state contacts the disclosant with regard to its filing obligations after the MTC has received a written request to begin voluntary disclosure in the contacting state for the tax type at issue. A state may withhold this protection when an applicant unreasonably fails to act in a timely manner to continue the voluntary disclosure process.
Can the taxpayer select which states it wishes to enter into a VDA with?		Taxpayers can identify which states they desire to enter into voluntary disclosure contracts with by working with the MTC.
Is a taxpayer that is currently under income/franchise tax audit by the MTC eligible to participate in the Voluntary Disclosure Program for income/franchise tax?		The taxpayer could apply for voluntary disclosure in states other than the states in which the taxpayer is being audited.
If sales tax registration is through SST, how is this coordinated as a part of the MTC-VDA for income tax with a state? In other words, if we represent that sales tax compliance will be through SST, will state need positive confirmation?		The MTC does not coordinate applications under the expedited program with SST. When a taxpayer represents in its application that it intends to participate in SST amnesty, the MTC and participating states will give it expedited processing. No one verifies the representation.

Question	Answer
Can a taxpayer participate in the MTC Voluntary Disclosure Program if it does not register for SST Amnesty?	Yes, the MTC voluntary disclosure program is available to any interested taxpayer regardless of whether they participate in SST. However, the MTC will not expedite the processing of a non SST related application.
Can you use the MTC VD systems and not have a need to use the SST system?	Yes, the MTC voluntary disclosure program is available to any interested taxpayer regardless of whether they participate in SST.
Assuming model 3 or 4 is used ---- How soon must a company begin collecting sales tax after registering through sstp central registration? The outline says within 30 days, does the taxpayer choose when to begin collecting?	The taxpayer chooses when to register and must be prepared to collect tax immediately for Model 4. Model 3 is not yet in existence and thus the rules for this model are not yet available.
Why combine an existing MTC voluntary disclosure program with the new SST voluntary disclosure program? There are different states and rules. Just seems it would confuse things even more...	Question does not make sense - recommend deleting question.
What is the expectation that any additional states might join SSTP amnesty in 2006 or future? other than Nevada? What are the likely states?	Vermont is expected to petition for membership in early 2006. Hawaii is considering legislation that would allow them to become a member. Further state participation is contingent on legislative action in other states.
Once you register in the SST states, can you unregister?	You can unregister but would lose amnesty if you do so before the 36 month period had elapsed.
What about Sales Tax Exemption Certificates?	Beyond the scope of presentation - delete question.
When will models 1 and 2 be available? What will the cost be? Where can I go to get more information on the technology models?	States are currently negotiating with providers of Model 1 services. That process should be complete in the next month or two. States are very interested in having Model 2 software available as soon as possible. That process is also underway. States are discussing the process for certifying a company's internal system as a Model 3 but that will not be completed for some time.

For more information about the amnesty program you can contact COST Tax Counsel, Steve Kranz at skranz@statetax.org.